

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OLC #77-0824

1 MAR 1977

John G.

The Honorable Walter F. Mondale
President of the Senate
Washington, DC 20510

Dear Mr. President:

Submitted herewith, pursuant to the provisions of 5 U.S.C. 552(d), is the report from the Central Intelligence Agency concerning its administration of the Freedom of Information Act during calendar year 1976.

During the past year, 3,490 requests for records were logged and put into processing by the Agency, of which 761 were submitted under the Freedom of Information Act. An additional 1,002 requests were received during 1976 but not formally processed pending receipt of additional information from the requesters. These 1,002 letters of request were, without exception, requests for access to personal records, which, under CIA regulations, are now processed under the provisions of the Privacy Act of 1974 rather than the Freedom of Information Act. A summary of Agency activity in this regard, including Privacy Act and Executive Order 11652 requests as well as Freedom of Information requests, is provided in the statistical table below. You will note that the overall processing backlog was reduced by 323 cases during the year.

	<u>FOIA</u>	<u>PA</u>	<u>EO</u>
1. Requests carried over from CY 1975	1,130	356	68
2. Requests logged during CY 1976	761	2,356	373
3. Total final responses during CY 1976	1,355	2,114	

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a. Granted in full	148	154	81
b. Granted in part	562	404	220
c. Denied in full	122	56	37
d. No record available and misc. (e.g., canceled or withdrawn)	523	1,500	6
4. Requests carried over to CY 1977	536	598	97

In addition to the above, the Agency responded during 1976 to numerous other requests from members of the public for unclassified CIA publications such as maps, reference aids, monographs, and translations of foreign language broadcasts and press items--either directly or by referral to those federal agencies charged with responsibility for the distribution of such CIA products.

Unless Freedom of Information requests happened to duplicate those previously processed, the Agency was seldom able to respond within the 10 working days stipulated by the Act--or indeed within the 20 days permitted by the Act when certain conditions are met. A number of factors, some of which are perhaps unique to this Agency, have contributed to this, including the following considerations:

1. The heavy volume of requests received during 1975 (i.e., 6,609) resulted in processing backlogs which persist to this date. In an effort to be fair to all, requests, unless exceptional circumstances prevail, are processed on a "first come, first served" basis.
2. Because of the specialized missions of various components and the security requirement for compartmentalization, the CIA has no central file or index to its recordholdings. A search for "all" information on a given topic may therefore entail the searching of several file systems, under different command authorities and with varying degrees of retrieval capabilities.
3. If "hits" made during the index search phase relate to inactive records, a not infrequent occurrence, it takes two or three days to retrieve them from remote storage in order that their relevance can be determined.
4. Searches in one component will often surface records originated by, or of subject-matter interest

to, other components or other departments or agencies. The time required for reproduction and referral of such documents to the organizations having cognizance further delays completion of processing.

5. The review of security-classified records for releasability is a very time-consuming process and, in the case of intelligence records, too important to be done in haste. A single request can necessitate the classification review of hundreds or thousands of documents, each of which must be carefully examined by a limited number of qualified experts, many of whom are relatively senior officers with numerous other demands placed upon their time.
6. Finally, the growing number of Freedom of Information appeals (211) and law suits (37) during 1976 has resulted in the diversion of available manpower from the initial processing of requests.

Be assured that the Agency has made, and continues to make, every effort to comply fully with both the letter and spirit of the Freedom of Information Act consistent with the Director's statutory mandate to protect intelligence sources and methods from unauthorized disclosure. Despite the sizable commitment of resources devoted to administration of the Act, however, we have during the past year been unable to eliminate our processing backlogs and have rarely been able to meet the statutory deadlines for responses to either requests or appeals. A considerable increase in resources would be necessary to meet the stipulated deadlines, and current budgetary limitations and personnel ceilings preclude such action. More reasonable time limits for replies to requests and appeals seem clearly justified. We urge therefore that the Congress amend this aspect of the law so that the time constraints are reasonable and take into account both the volume of records involved in particular requests or appeals and their possible sensitivity with respect to national security matters.

Respectfully,

/s/

John F. Blake
Deputy Director
for
Administration

Enclosure

FREEDOM OF INFORMATION ACT

ANNUAL REPORT TO THE CONGRESS FOR THE YEAR 1976

1. Total number of initial determinations not to comply with a request for records made under subsection 552(a): 684
2. Authority relied upon for each such determination:

(a) Exemptions in 552(b):

<u>Exemption invoked</u>	<u>Number of times (i.e., requests) invoked</u>
(b) (1)	493
(b) (2)	106
(b) (3)	594
(b) (4)	11
(b) (5)	123
(b) (6)	295
(b) (7)	230
(b) (8)	0
(b) (9)	0

(b) Statutes invoked pursuant to Exemption No. 3:

<u>Statutory citation</u>	<u>Number of times (i.e., requests) invoked</u>
50 U.S.C. 403(d)(3) and/or 50 U.S.C. 403g	594

(c) Other authority: None

In 16 instances, requesters were asked to contact other agencies, or their requests were referred directly to other agencies, when it was ascertained that the records sought were not under CIA jurisdiction. Twenty other requests were withdrawn after processing commenced. Finally, 126 cases were canceled because of the failure of the requesters to respond to letters asking for clarification, additional identifying information, release from third parties, fee deposits, etc. We do not regard any of the above as denials inasmuch as the Agency was prepared to act on the requests. They are therefore not included in the 684 figure given in answer to question 1.

3. Names and titles of each person who is responsible for the denial of records requested and the number of instances of participation of each:

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<u>Name</u>	<u>Title</u>	<u>Number of instances of participation</u>
	Deputy Director of Medical Services	1
	Associate Deputy Director for Operations	2
	Director of Medical Services	2
	Director of Technical Services	8
	Chief of Information Services Staff	485
	Assistant Legislative Counsel	9
	Executive Officer, Office of Scientific Intelligence	1
	Inspector General	2
	Deputy Director of National Photographic Interpretation Center	1
	Deputy Director of Personnel	4
	Director of Development and Engineering	1
	Deputy Director of Communications	3
	Deputy Director for Science and Technology	1
	Chief, Information Review Group, Office of Security	42
	Director of Central Reference	6
	Chief, Intelligence Production Staff, Office of Scientific Intelligence	1
	Deputy Director of Security	1
	Director of Economic Research	1
	Executive Secretary to the Director of Central Intelligence	1
	Assistant to the Director	2
	Executive Assistant, Office of Communications	1
	Director of Security	38
	Director of Research and Development	4
	Director of Communications	1

Continued

	Director of National Photographic Interpretation Center	1
	Administrative Officer for Director of Central Intelligence	1
	Special Assistant to the Director of Medical Services	2
	Director of Personnel	45
	Director of Security	38
	Chief, Plans and Resources Staff, Office of Training	2
	Deputy Director of Security for Policy and Management	44
	Deputy Director for Financial Operations, Office of Finance	1
	General Counsel	1
	Director of Logistics	1
	Associate General Counsel	2
	Deputy Director of Economic Research	5
	Deputy General Counsel	2
	Deputy Director of Current Intelligence	5
	Deputy Director of Logistics	1
		STATSPEC
	Executive Officer, Directorate of Science and Technology	1
	Director of Training	15
	Deputy Director of Training	3
	Deputy Director of Security	38
	Special Assistant to the Deputy to the DCI for the Intelligence Community	2
	Assistant to the Director	9
	Executive Officer, Office of Finance	1
	General Counsel	6
	Director of Scientific Intelligence	2
	Information and Privacy Coordinator	4

4. Total number of intra-agency appeals from adverse initial decisions made pursuant to subsection (a)(6): 211

- (a) Number of appeals in which, upon review, request for information was granted in full: 3
- (b) Number of appeals in which, upon review, request for information was denied in full: 41
- (c) Number of appeals in which, upon review, request was denied in part: 95

5. Authority relied upon for each such appeal determination:

(a) Exemptions in 552(b):

<u>Exemption invoked</u>	<u>Number of times (i.e., appeals) invoked</u>
(b) (1)	92
(b) (2)	27
(b) (3)	115
(b) (4)	0
(b) (5)	21
(b) (6)	79
(b) (7)	51
(b) (8)	0
(b) (9)	0

(b) Statutes invoked pursuant to Exemption No. 3:

<u>Statutory citation</u>	<u>Number of times (i.e., appeals) invoked</u>
50 U.S.C. 403(d)(3) and/or 50 U.S.C. 403g	115

(c) Other authority: None

In two instances, it was determined, after logging the appeals, that the records under contention were not under CIA jurisdiction, and the requesters were thereupon advised to direct their appeals to the appropriate agencies. In another case, the denied documents which were the subject of the appeal were discovered to be not germane to the request. Since no records were denied by this Agency, the above appeals were not included in the figures given in response to questions 4(a), (b) and (c), above.

6. Names and titles of each person who, on appeal, is responsible for the denial in whole or in part of records requested and the number of instances of participation of each:

<u>Name</u>	<u>Title</u>	<u>Number of instances of participation</u>
John F. Blake	Deputy Director for Administration	54
David H. Blee	Associate Deputy Director for Operations	2
George A. Carver	Deputy to the DCI for National Intelligence Officers	1
Leslie C. Dirks	Deputy Director for Science and Technology	1
Michael J. Malanick	Associate Deputy Director for Administration	6
John N. McMahon	Associate Deputy Director for Administration	2
William E. Nelson	Deputy Director for Operations	48
Edward W. Proctor	Deputy Director for Intelligence	1
Theodore Shackley	Associate Deputy Director for Operations	1
Sayre Stevens	Associate Deputy Director for Science and Technology	1
William Wells	Deputy Director for Operations	39

7. Provide a copy of each court opinion or order giving rise to a proceeding under subsection (a)(4)(F); etc.: None
8. Provide an up-to-date copy of all rules or regulations issued pursuant to or in implementation of the Freedom of Information Act (5 U.S.C. 552):

No amendments were published in 1976.

9. Provide separately a copy of the fee schedule adopted and the total dollar amount of fees collected for making records available:

See Tab A.

The total amount collected and transmitted for deposit in the U.S. Treasury during 1976 was \$10,035.10.

10. A. Availability of records:

Continued

As the CIA does not promulgate materials as described in 5 U.S.C. 552 (a) (2) (A) - (C), no new categories have been published.

In the case of each request made pursuant to the Freedom of Information Act, all reasonably segregable portions of records are released.

B. Costs:

During the past year, the Agency expended 181,995 man-hours (87.5 man-years) in processing requests received under the Freedom of Information and Privacy Acts and under the mandatory classification review procedures of Executive Order 11652. Of this total, 60,484 man-hours were by subprofessional personnel, and the remaining 121,511 were by professional personnel. The average grade of subprofessional personnel involved in this activity is estimated to be GS-6/Step 3, and that of professional personnel to be GS-12/Step 5. The total salary expenditures for calendar year 1976, based upon the current rates of \$5.32 per hour for subprofessional labor and \$11.14 per hour for professional labor, would therefore amount to \$1,675,407.42, of which approximately \$741,700 can be attributed to administration of the Freedom of Information Act.

It should be emphasized that the above figures are very conservative. If official holidays, annual and sick leave benefits, and overtime payments were taken into account, the salary costs would be increased by at least 15 percent and the actual manpower devoted to these programs would approximate 100 man-years. Moreover, Government contributions to insurance, hospitalization, and retirement programs would raise the total personnel cost by an additional 10 percent.

No attempt has been made to calculate such costs as office space, equipment rentals, office supplies, EDP support, etc. It is believed, however, that these amounts would be minor in comparison with the salary figures provided above.

C. Compliance with time limitations for agency determinations:

- (I) Provide the total number of instances in which it was necessary to seek a 10-day extension of time: None

Continued

The Agency's processing backlogs have been such that in almost all instances the deadlines for responding to requests and appeals expired prior to our actually working on them. We were not in a position, for that reason, to assert that any of the three conditions upon which an extension must be based existed. We have therefore explained the problem to requesters and appellants and apprised them of their rights under the law.

- (II) Provide the total number of instances where court appeals were taken on the basis of exhaustion of administrative procedures because the agency was unable to comply with the request within the applicable time limits: 14
- (III) Provide the total number of instances in which a court allowed additional time upon a showing of exceptional circumstances, together with a copy of each court opinion or order containing such an extension of time: None

D. Internal Memoranda:

A copy of HN was submitted with the Annual Report for 1975. We anticipate the publication of a handbook in 1977 which will cover Agency procedures in considerable detail. This will be provided as an attachment to next year's submission.

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CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

Fees for Records Services

(a) Search and duplication fees shall be charged according to the schedule set out in paragraph (c) of this section for services rendered in responding to requests for Agency records under this part. Records shall be furnished without charge or at a reduced rate whenever the Coordinator determines that waiver or reduction of the charge is in the public interest because furnishing the information can be considered as primarily benefiting the general public. The Coordinator also may waive or reduce the charge whenever he determines that the interest of the government would be served thereby. Fees shall not be charged where they would amount, in the aggregate, for a request, or a series of related requests, to less than \$4.

(b) Where it is anticipated that the fees chargeable under this section will amount to more than \$25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or of such portion thereof as can readily be estimated. In appropriate cases an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with the Coordinator in an attempt to revise the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Agency until a reply is received from the requester.

(c) The schedule of fees for services performed in responding to requests for Agency records is established as follows:

(1) For each one quarter hour spent by clerical personnel in searching for a record, \$1;

(2) For each one quarter hour spent by professional personnel in searching for a record, \$2;

(3) For computer search, \$55;

(4) For copies of paper documents in sizes not larger than 8 1/2 x 14 inches, \$0.10 per copy of each page; and

(5) For duplication of non-paper media or any document that cannot be reproduced on a standard office copier actual direct cost.

TRANSMITTAL SLIP		DATE
TO: OLC		
ROOM NO. 7D-49	BUILDING	
REMARKS: An identical report was submitted to the Speaker of the House.		
FROM: IPS		
ROOM NO.	BUILDING	EXTENSION 7486

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)